

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0416-PST-E TCEQ ID: RN101875177 CASE NO.: 35513**  
**RESPONDENT NAME: B.K. TRADING, INC.**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Highway 271, Talco, Titus County

**TYPE OF OPERATION:** property with three inactive underground storage tanks ("USTs")

**SMALL BUSINESS:** N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired May 18, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563

**TCEQ Regional Contact:** Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176

**Respondent:** Mr. Bilal Masooda Khwaja, President, B.K. Trading, Inc., P.O. Box 843, Paris, Texas 75461

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p> <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review </p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 11, 2008</p> <p><b>Date of NOE Relating to this Case:</b> February 19, 2008</p> <p><b>Background Facts:</b> The EDP RP was filed on August 14, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 16, 2009.</p> <p><b>Current Compliance Status:</b> The tanks have been removed and the initial inspection indicated a suspected release. A release investigation is pending to determine whether remediation of the surrounding soil will be necessary. Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>The Respondent does not have a delivery certificate.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</li> <li>Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</li> </ol>	<p><b>Total Assessed:</b> \$3,675</p> <p><b>Total Deferred:</b> \$0</p> <p> <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset </p> <p><b>Total Paid/Due to General Revenue:</b> \$175/\$3,500</p> <p>The Respondent paid \$175 of the administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High    <input checked="" type="checkbox"/> Average    <input type="checkbox"/> Poor </p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High    <input checked="" type="checkbox"/> Average    <input type="checkbox"/> Poor </p> <p><b>Major Source:</b> <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days, permanently remove the UST system from service.</li> <li>Within 45 days, submit an amended registration to reflect the current ownership and operational status of the UST system.</li> <li>Within 60 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

<b>DATES</b>	Assigned	25-Feb-2008	Screening	7-Mar-2008	EPA Due	
	PCW	12-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	B.K. Trading, Inc.
Reg. Ent. Ref. No.	RN101875177
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35513	No. of Violations	2	
Docket No.	2008-0416-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	John Shelton	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$3,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7 **\$175**

Notes The Respondent received one NOV with same or similar violations.

**Culpability** No 0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

**Total EB Amounts** \$5,339 **0% Enhancement\*** Subtotal 6 **\$0**  
**Approx. Cost of Compliance** \$22,600 **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$3,675**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,675**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$3,675**

**DEFERRAL** Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$3,675**

Screening Date 7-Mar-2008

Docket No. 2008-0416-PST-E

PCW

Respondent B.K. Trading, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35513

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101875177

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component Number of... Enter Number Here Adjust.

NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent received one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

Screening Date 7-Mar-2008

Docket No. 2008-0416-PST-E

PCW

Respondent B.K. Trading, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35513

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101875177

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership of the UST system.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

25 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent** B.K. Trading, Inc.  
**Case ID No.** 35513  
**Reg. Ent. Reference No.** RN101875177  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	11-Feb-2008	6-Dec-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 7-Mar-2008

Docket No. 2008-0416-PST-E

PCW

Respondent B.K. Trading, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35513

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101875177

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

25- Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the February 11, 2008 investigation to the March 07, 2008 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$5,335

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

## Economic Benefit Worksheet

**Respondent** B.K. Trading, Inc.  
**Case ID No.** 35513  
**Reg. Ent. Reference No.** RN101875177  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$22,500	11-Mar-2004	6-Dec-2008	4.7	\$5,335	n/a	\$5,335
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to permanently remove from service three USTs with combined capacity of 30,000 gallons at \$0.75 per gallon. The Date Required is the date when the Respondent was required to upgrade the system and the Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$22,500

TOTAL

\$5,335



## Compliance History Report

Customer/Respondent/Owner-Operator: CN602494049 B. K. Trading, Inc. Classification: AVERAGE Rating: 9.50  
Regulated Entity: RN101875177 JES FOOD Classification: AVERAGE Site Rating: 2.00

ID Number(s):

Location: HWY 271, TALCO, TX, 75487  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: January 30, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 30, 2004 to January 30, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: 239 - 2563

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? B.K. Trading, Inc.
4. If Yes, who was/were the prior owner(s)? BO III dba Jes Food
5. When did the change(s) in ownership occur? 3/11/2004
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 08/03/2007 | (569700) |
| 2 | 02/19/2008 | (618025) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/03/2007 (569700) CN602494049

Self NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to amend the site's PST Registration Information to reflect the current property owner's contact information and status of the UST system.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to perform the permanent removal of the UST system at Hwy 271, Talco, Texas in accordance with 334.55 or provide documentation for the technical upgrade requirements in accordance with 334.47.

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
B.K. TRADING, INC.,  
RN101875177

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0416-PST-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding B.K. Trading, Inc., ("B.K. Trading") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and B.K. Trading appear before the Commission and together stipulate that:

1. B.K. Trading owns property that contained three inactive underground storage tanks ("USTs") at Highway 271, Talco, Titus County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and B.K. Trading agree that the Commission has jurisdiction to enter this Agreed Order, and that B.K. Trading is subject to the Commission's jurisdiction.
4. B.K. Trading received notice of the violations alleged in Section II ("Allegations") on or about February 24, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by B.K. Trading of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand six hundred seventy-five dollars (\$3,675.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). B.K. Trading paid one hundred seventy-five dollars (\$175.00) of the administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the administrative penalty shall be payable in thirty-five payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If B.K. Trading fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, B.K. Trading's failure to meet the payment schedule of this Agreed Order constitutes the failure by B.K. Trading to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and B.K. Trading agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that B.K. Trading has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on February 11, 2008, a TCEQ Tyler Regional Office investigator documented that B.K. Trading violated:
  - a. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the

change or addition. Specifically, the registration was not updated to reflect the current ownership of the UST system and

- b. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

### III. DENIALS

B.K. Trading generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that B.K. Trading pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and B.K. Trading's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: B.K. Trading, Inc., 2008-0416-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. B.K. Trading shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, B.K. Trading shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55;
  - b. Within 45 days after the effective date of this Agreed Order, B.K. Trading shall submit an amended registration to reflect the current ownership and operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, B.K. Trading shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B.K. Trading shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Mike Brashear, Waste Section Manager  
Texas Commission on Environmental Quality  
Tyler Regional Office  
2916 Teague Drive  
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon B.K. Trading. B.K. Trading is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If B.K. Trading fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, B.K. Trading's failure to comply is not a violation of this Agreed Order. B.K. Trading shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. B.K. Trading shall notify the Executive Director within seven days after B.K. Trading becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by B.K. Trading shall be made in writing to the Executive Director. Extensions are not effective until B.K. Trading receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against B.K. Trading in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to B.K. Trading, or three days after the date on which the Commission mails notice of this Agreed Order to B.K. Trading, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

ATT: TRACY CHANDLER

B.K. Trading, Inc.  
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Marguerite Pindie  
For the Executive Director

10/29/09  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on B.K. Trading's compliance history;
- Greater scrutiny of any permit applications submitted by B.K. Trading;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against B.K. Trading;
- Automatic referral to the Attorney General's Office of any future enforcement actions against B.K. Trading; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

X Masooda Khawaja  
Signature

10-16-09  
Date

MASOODA KHAWAJA  
Name (Printed or typed)  
Authorized representative of  
B.K. Trading, Inc.

PRESIDENT  
Title